Novak v. Overture Services, Inc. et al Doc. 53

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROBERT NOVAK, d/b/a Pets Warehouse
and PetsWarehouse.com

Plaintiff,

-v-

OVERTURE SERVICES, INC., GOOGLE, INC.,
INNOVATIVE MARKETING SOLUTIONS, INC.
d/b/a KANOODLE.COM, JOHN HOLDEFEHR
d/b/a JUDGE-FOR-YOURSELF.COM,
BIOCHEMICS, INC. d/b/a DOCTORDOG.COM

Defendants.

Civil No.
CV-02-5164
(DRH)(WDW)

GOOGLE INC.'S ANSWER WITH COUNTERCLAIM

GOOGLE INC.

Counter-claimant,

-v-

ROBERT NOVAK, d/b/a Pets Warehouse
and PetsWarehouse.com

Counter-defendant.

ANSWER TO COMPLAINT

Google Inc. ("Google") hereby responds to the complaint of Robert Novak, d/b/a Pets Warehouse and PetsWarehouse.com, as follows:

1. Google admits that Plaintiff complains of Defendants, but Google is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 1, and on that basis denies the remaining allegations therein.

Dockets.Justia.com

Nature of the Action

2. Google denies the allegations in Paragraph 2 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 as they relate to other parties, and on that basis denies those allegations. The remaining allegations in Paragraph 2 state legal conclusions to which no response is required.

The Parties

3. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3, and on that basis denies the allegations therein.

4. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4, and on that basis denies the allegations therein.

5. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5, and on that basis denies the allegations therein.

6. Google admits that it does business within this judicial district but otherwise denies the allegations in Paragraph 6.

7. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7, and on that basis denies the allegations therein.

8. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8, and on that basis denies the allegations therein.

9. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9, and on that basis denies the allegations therein.

Jurisdiction and Venue

10. Paragraph 10 in the Complaint states legal conclusions to which no response is required. To the extent a response is required, Google admits only that it does business in this judicial district, and denies all other allegations insofar as they relate to Google, and insofar as they relate to other parties, denies the allegations based on a lack of knowledge or information sufficient to form a belief as to the truth of the allegations.

THE FACTS

Pets Warehouse's Products

11. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11, and on that basis denies the allegations therein.

12. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12, and on that basis denies the allegations therein.

13. Google denies the allegations in Paragraph 13.

14. Google denies the allegations in Paragraph 14.

The Kanoodle Search Engine Service

15. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15, and on that basis denies the allegations therein.

The Google Search Engine Service

16. Google admits that it operates an Internet search engine on its website located at www.google.com. Google admits it claims its Internet search is an easy, honest and objective way to find high-quality websites with information relevant to the user's search. Google admits that it uses its proprietary PageRank™ technology for ranking web pages. Google admits that it provides global search services to partner sites, which include Ask Jeeves and AOL. Google admits that through its AdWords program, advertisers may target consumers with advertisements based on consumers' use of specific keywords. Google admits that Internet users have access to the results of its search engine. Google denies all other allegations in Paragraph 16.

The Overture Search Engine Service

17. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17, and on that basis denies the allegations therein.

Theferretstore.com

18. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18, and on that basis denies the allegations therein.

Biochemics, Inc. d/b/a Doctordog.com

19. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19, and on that basis denies the allegations therein.

Judge-for-yourself.com

20. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20, and on that basis denies the allegations therein.

Technical Background

21. Google admits that Internet users use search engines to find information and websites. Google admits that many computer users make use of the Google search engine by typing in search terms. Google admits that it uses a unique search algorithm and ranking tool to provide search results organized in order of relevancy. Google is without knowledge or information sufficient to form a belief as to the truth of all other allegations in Paragraph 21, and on that basis denies all other allegations therein.

22. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22, and on that basis denies the allegations therein.

Count I

23. Count I was dismissed by order of the Court dated March 25, 2004.

24. Count I was dismissed by order of the Court dated March 25, 2004.

25. Count I was dismissed by order of the Court dated March 25, 2004.

26. Count I was dismissed by order of the Court dated March 25, 2004.

27. Count I was dismissed by order of the Court dated March 25, 2004.

28. Count I was dismissed by order of the Court dated March 25, 2004.

Count II

29. Google incorporates its responses to Paragraphs 1-28 as though fully set forth herein.

30. Google denies the allegations in Paragraph 30 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 as they relate to other parties, and on that basis denies those allegations.

31. Google denies the allegations in Paragraph 31 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 as they relate to other parties, and on that basis denies those allegations.

32. Google denies the allegations in Paragraph 32 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32 as they relate to other parties, and on that basis denies those allegations.

33. Google denies the allegations in Paragraph 33 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33 as they relate to other parties, and on that basis denies those allegations.

34. Google denies the allegations in Paragraph 34 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34 as they relate to other parties, and on that basis denies those allegations.

35. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35, and on that basis denies the allegations therein.

36. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36, and on that basis denies the allegations therein.

37. Google denies the allegations in Paragraph 37 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37 as they relate to other parties, and on that basis denies those allegations.

Count III

38. Google incorporates its responses to Paragraphs 1-37 as though fully set forth herein.

39. Google admits that the defendants identified in the Complaint as "TFS," "DD" and "JFY" have purchased keyword-triggered advertising from Google. Google is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 39, and on that basis denies the allegations therein.

Count IV

40. Google incorporates its responses to Paragraphs 1-39 as though fully set forth herein.

41. Paragraph 41 in the Complaint states legal conclusions to which no response is required.

42. Google denies the allegations in Paragraph 42 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42 as they relate to other parties, and on that basis denies those allegations.

43. Google denies the allegations in Paragraph 43 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43 as they relate to other parties, and on that basis denies those allegations.

44. Google denies the allegations in Paragraph 44 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the

allegations in Paragraph 44 as they relate to other parties, and on that basis denies those allegations.

Count V

45. Google incorporates its responses to Paragraphs 1-44 as though fully set forth herein.

46. Paragraph 46 in the Complaint states legal conclusions to which no response is required.

47. Google denies the allegations in Paragraph 47 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47 as they relate to other parties, and on that basis denies those allegations.

48. Google denies the allegations in Paragraph 48 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48 as they relate to other parties, and on that basis denies those allegations.

49. Google denies the allegations in Paragraph 49 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49 as they relate to other parties, and on that basis denies those allegations.

50. Google denies the allegations in Paragraph 50 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50 as they relate to other parties, and on that basis denies those allegations.

51. Google denies the allegations in Paragraph 51 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51 as they relate to other parties, and on that basis denies those allegations.

52. Google denies the allegations in Paragraph 52 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52 as they relate to other parties, and on that basis denies those allegations.

Count VI

53. Google incorporates its responses to Paragraphs 1-52 as though fully set forth herein.

54. Paragraph 54 in the Complaint states legal conclusions to which no response is required.

55. Google denies the allegations in Paragraph 55.

56. Google denies the allegations in Paragraph 56 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56 as they relate to other parties, and on that basis denies those allegations.

57. Google denies the allegations in Paragraph 57 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57 as they relate to other parties, and on that basis denies those allegations.

58. Google denies the allegations in Paragraph 58 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58 as they relate to other parties, and on that basis denies those allegations.

Count VII

59. Google incorporates its responses to Paragraphs 1-58 as though fully set forth herein.

60. Google denies the allegations in Paragraph 60 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60 as they relate to other parties, and on that basis denies those allegations.

61. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61, and on that basis denies the allegations therein.

62. Google denies the allegations in Paragraph 62 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62 as they relate to other parties, and on that basis denies those allegations.

63. Google denies the allegations in Paragraph 63 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63 as they relate to other parties, and on that basis denies those allegations.

64. Google denies the allegations in Paragraph 64 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64 as they relate to other parties, and on that basis denies those allegations.

65. Google denies the allegations in Paragraph 65 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65 as they relate to other parties, and on that basis denies those allegations.

66. Google denies the allegations in Paragraph 66 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66 as they relate to other parties, and on that basis denies those allegations.

Count VIII

67. Google incorporates its responses to Paragraphs 1-66 as though fully set forth herein.

68. Google denies the allegations in Paragraph 68 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68 as they relate to other parties, and on that basis denies those allegations.

69. Google denies the allegations in Paragraph 69 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69 as they relate to other parties, and on that basis denies those allegations.

70. Google denies the allegations in Paragraph 70 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70 as they relate to other parties, and on that basis denies those allegations.

71. Google denies the allegations in Paragraph 71 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71 as they relate to other parties, and on that basis denies those allegations.

72. Google denies the allegations in Paragraph 72 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72 as they relate to other parties, and on that basis denies those allegations.

73. Google denies the allegations in Paragraph 73 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 73 as they relate to other parties, and on that basis denies those allegations.

Count IX

74. Google incorporates its responses to Paragraphs 1-73 as though fully set forth herein.

75. Google denies the allegations in Paragraph 75 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 75 as they relate to other parties, and on that basis denies those allegations.

76. Google denies the allegations in Paragraph 76 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 76 as they relate to other parties, and on that basis denies those allegations.

77. Google denies the allegations in Paragraph 77 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 77 as they relate to other parties, and on that basis denies those allegations.

78. Google denies the allegations in Paragraph 78 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 78 as they relate to other parties, and on that basis denies those allegations.

79. Google denies the allegations in Paragraph 79 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 79 as they relate to other parties, and on that basis denies those allegations.

Count X

As to the unnumbered paragraph between 79 and 80, Google incorporates its responses to Paragraphs 1-79 as though fully set forth herein.

80. Google denies the allegations in Paragraph 80 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 80 as they relate to other parties, and on that basis denies those allegations.

81. Google denies the allegations in Paragraph 81 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 81 as they relate to other parties, and on that basis denies those allegations.

Count XI

82. Google incorporates its responses to Paragraphs 1-81 as though fully set forth herein.

83. Google admits that Paragraph 83 is a partial quotation of 15 U.S.C. §1125(a)(1).

84. Google denies the allegations in Paragraph 84 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 84 as they relate to other parties, and on that basis denies those allegations.

85. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 85, and on that basis denies the allegations therein.

86. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 86, and on that basis denies the allegations therein.

87. Google denies the allegations in Paragraph 87 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 87 as they relate to other parties, and on that basis denies those allegations.

88. Google denies the allegations in Paragraph 88 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the

allegations in Paragraph 88 as they relate to other parties, and on that basis denies those allegations.

89. Google denies the allegations in Paragraph 89 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 89 as they relate to other parties, and on that basis denies those allegations.

90. Google denies the allegations in Paragraph 90 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90 as they relate to other parties, and on that basis denies those allegations.

Count XII

91. Google incorporates its responses to Paragraphs 1-90 as though fully set forth herein.

92. Google denies the allegations in Paragraph 92 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 92 as they relate to other parties, and on that basis denies those allegations.

Count XIII

93. Paragraph 93 does not contain any allegations and thus no response is required.

94. Google incorporates its responses to Paragraphs 1-93 as though fully set forth herein.

95. Google denies the allegations in Paragraph 95 insofar as they relate to Google. Google is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 95 as they relate to other parties, and on that basis denies those allegations.

AFFIRMATIVE DEFENSES

First Affirmative Defense

96. The Complaint fails to state a claim upon which relief may be granted.

Second Affirmative Defense

97. Plaintiff lacks standing to bring the claims alleged in the Complaint.

Third Affirmative Defense

98. PETS WAREHOUSE is a generic term reflecting the goods and services offered by Plaintiff.

Fourth Affirmative Defense

99. PETS WAREHOUSE is descriptive of the goods and services offered by Plaintiff, and has not acquired secondary meaning.

Fifth Affirmative Defense

100. Plaintiff's trademark infringement and dilution claims are barred because Plaintiff has abandoned the PETS WAREHOUSE mark.

Sixth Affirmative Defense

101. Upon information and belief, Plaintiff filed a voluntary Chapter 7 bankruptcy petition ("Bankruptcy Case") in the United States Bankruptcy Court for the Eastern District of New York in 1993. During the course of the Bankruptcy Case, Plaintiff represented to the Court on numerous occasions that he owned no intellectual property. Plaintiff now claims that he enjoys trademark rights dating back 30 years. Plaintiff is judicially estopped from claiming that he owns a trademark for PETS WAREHOUSE.

Seventh Affirmative Defense

102. Google has not used the PETS WAREHOUSE mark in commerce within the meaning and scope of the Lanham Act.

Eighth Affirmative Defense

103. Assuming any infringement has occurred, which Google expressly denies, Google is an innocent infringer under Section 32(2) of the Lanham Act, 15 U.S.C. § 1114(2).

Ninth Affirmative Defense

104. Advertisers who make a legally permissible use of the PETS WAREHOUSE mark in their advertising or on their websites are not committing direct trademark infringement, unfair competition or dilution, and therefore Google cannot be subject to contributory or vicarious liability.

Tenth Affirmative Defense

105. Plaintiff's claims are barred by the provisions of N.Y. Gen. Bus. Law § 349(e).

Eleventh Affirmative Defense

106. Plaintiff's claim under N.Y. Gen. Bus. Law § 368-d is barred because the section was repealed in January 1997.

Twelfth Affirmative Defense

107. Plaintiff's claims are barred, in whole or in part, by the terms of his agreement with Google.

Thirteenth Affirmative Defense

108. Plaintiff's claims are barred by the defense of fair use.

Fourteenth Affirmative Defense

109. Plaintiff's claims are barred by laches.

Fifteenth Affirmative Defense

110. Plaintiff's claims are barred by estoppel.

Sixteenth Affirmative Defense

111. Plaintiff's claims are barred by acquiescence.

Seventeenth Affirmative Defense

112. Plaintiff's claims are barred by unclean hands.

Eighteenth Affirmative Defense

113. Plaintiff's claims are barred by waiver.

Nineteenth Affirmative Defense

114. To the extent that Plaintiff suffered any damage or injury, which Google expressly denies, he failed to take the necessary steps to mitigate the damage or injury sustained.

Twentieth Affirmative Defense

115. The Complaint, and each purported cause of action contained therein, is barred in whole or in part because Google's actions were based on good, sufficient, and legal cause, upon reasonable grounds for belief in their justification, and were taken in good faith and without malice or ill will for Plaintiff.

COUNTERCLAIM FOR CANCELLATION

Defendant and Counterclaimant Google Inc. ("Google"), through its attorneys, hereby counterclaims as follows against Robert Novak, d/b/a Pets Warehouse and PetsWarehouse.com ("Novak"):

General Allegations

116. Based upon the allegations in Paragraph 3 of the Complaint, Google is informed and believes and therefore alleges that Novak is an individual and a resident of the State of New York with his principal place of business at 1550 Sunrise Hwy, Copiague, New York.

117. Counterclaimant Google is a Delaware corporation with its primary place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.

118. Based upon the allegations in Paragraph 13 of the Complaint, Novak claims to be the owner of United States Trademark Registration No. 2,600,670 for the mark PETS WAREHOUSE.

119. Based upon the allegations in Paragraph 11 of the Complaint, Novak claims to be a seller of pet products and live aquaria under the PETS WAREHOUSE mark.

120. This Court has jurisdiction over this counterclaim pursuant to 28 U.S.C. § 1338 and 15 U.S.C. § 1119.

First Claim for Relief
(Cancellation of Registration – Generic Term)

121. Google incorporates by reference Paragraphs 116 through 120 as though fully set forth herein.

122. PETS WAREHOUSE is a generic term for the goods and/or services offered by Novak. The phrase PETS WAREHOUSE is a nondistinctive combination of the generic words “pets” and “warehouse.” As such, it neither identifies Novak’s goods or services nor distinguishes Novak’s goods or services from those of others.

123. Google has been damaged and is likely to continue to be damaged by registration of the PETS WAREHOUSE mark.

124. Accordingly, Google is entitled to an order from this Court canceling Novak’s registration. With respect to this order, Google requests certification to the Director of the United States Patent and Trademark Office (“USPTO”) instructing the Director to make the appropriate entries upon the USPTO’s records.

Second Claim for Relief
(Cancellation of Registration- Descriptive Term)

125. Google incorporates by reference Paragraphs 116 through 124 as though fully set forth herein.

126. PETS WAREHOUSE is descriptive of the goods and/or services offered for sale by Novak and thus cannot serve to identify Novak as the source of those goods or services.

127. The PETS WAREHOUSE mark has not acquired secondary meaning in the marketplace and thus has not become distinctive.

128. Novak's federal trademark registration for PETS WAREHOUSE was granted less than five years ago.

129. Google has been damaged and is likely to continue to be damaged by registration of the PETS WAREHOUSE mark.

130. Accordingly, Google is entitled to an order from this Court canceling Novak's registration. With respect to this order, Google requests certification to the Director of the USPTO instructing the Director to make the appropriate entries upon the USPTO's records.

WHEREFORE, Google prays for judgment:

a. dismissing the Complaint with prejudice;

b. ordering the Director of Patents and Trademarks to cancel Novak's United States Trademark Registration Number 2,600,670 for PETS WAREHOUSE and to make the appropriate entries upon the USPTO's records reflecting the cancellation;

c. awarding the costs and disbursements of this action, together with reasonable attorneys' fees; and

d. granting such other and further relief as this Court deems just and equitable.

Dated: April 12, 2004

Attorneys for Defendant Google Inc.

By: /s/ David H. Kramer

David H. Kramer (DK 4619)
John L. Slafsky (JS 3212)
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050
Tel.: (650) 493-9300
Fax: (650) 493-6811

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2004, I caused the defendant **Google Inc.'s Answer with Counterclaim** to be dispatched via U.S. Mail to the following:

ROBERT NOVAK
Plaintiff Pro Se
1550 Sunrise Highway
Copaigue, New York 11746

Paul Perlman, Esq.
HODGSON RUSS LLP
Attorneys for Marketing Solutions, Inc. d/b/a Kanoodle.com
One M&T Plaza, Suite 2000
Buffalo, New York 14203

Suzanne Berger, Esq.
BRYAN CAVE LLP
Attorneys for Overture Services, Inc.
1290 Avenue of the Americas
New York, New York 10104

David S. Fleming, Esq.
Philip A. Jones, Esq.
Eric W. Gallender, Esq.
BRINKS HOFER GILSON & LIONE
Attorneys for Overture Services, Inc.
NBC Tower, Suite 3600
455 N. Cityfront Plaza Drive
Chicago, IL 60611

John Holdefehr d/b/a judge-for-yourself.com
185 Lakeshore Drive
Oakland, New Jersey 07436

Arthur J. Liederman, Esq.
Matthew B. Anderson, Esq.
MORRIS, MAHONEY & MILLER, LLP
Attorneys for Biochemics, Inc. d/b/a/ DOCTORDOG.COM
17 State Street – Suite 1110
New York, New York 10004

/s/ Deborah Grubbs
Deborah Grubbs